IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

Criminal Writ Petition No.983 of 2007

Milind Wamanrao Kharavade. .. Petitioner
(Convict No.1714)

Vs.

The State of Maharashtra. .. Respondent

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Shri Arfan Sait, Advocate appointed for the Petitioner.

Shri Mrs.A.S.Pai, APP for the Respondent.

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CORAM : R.M.S.KHANDEPARKAR &
SMT.V.K.TAHILRAMANI, JJ

DATED : 6TH JULY, 2007

P.C.

1. Heard Shri Sait, the learned Advocate for the Petitioner and the learned APP for State.

2. Rule. By consent, rule is made returnable forthwith and the matter is heard finally.

3. The petitioner who has been convicted under the MCOC Act was serving the sentence in Kolhapur Central Prison, Kalamba. The petitioner was granted

furlough. However, he overstayed the period of furlough granted to him by 14 days. Hence, punishment came to be imposed upon him by cutting of remission of 4 days for each day of overstay i.e. 56 days of remission came to be cut. Besides this the amount of Rs.5,000/- which had been deposited by the petitioner by way of surety also came to be forfeited.

4. Shri Sait submitted that the wife of the petitioner was ill and it was necessary for her to be operated. The medical certificate to that effect is annexed to the petition. The prosecution has not assailed the genuineness of the said medical certificate. Shri Sait submitted that prior to the period of furlough of the petitioner having expired, the petitioner preferred an application for extension of furlough leave. The petitioner was under an impression that the said application was allowed and hence he has not reported back to prison. However, as the petitioner did not receive any reply regarding extension of furlough period, the petitioner himself surrendered back to Kolhapur Central Prison, Kalamba. Admittedly, the petitioner was not arrested and brought back to the prison but he himself surrendered back to the prison.

5. Looking to the above facts and the medical certificate, which is on record, we are inclined to reduce the period of punishment imposed on the petitioner. Instead of cutting of remission of 4 days for each day of overstay, only one day shall be cut for each day of overstay. As far as forfeiture of the amount of Rs.5,000/- which was deposited by way of surety bond is concerned, we are not inclined to interfere with the action taken by the authority.

6. The petition is partly allowed and the rule is accordingly made absolute.

7. Office to send copy of this order to the petitioner who is at present in Kolhapur Central Prison, Kalamba.

(R.M.S.KHANDEPARKAR, J)

(SMT.V.K.TAHILRAMANI,J)